

Notice of Allowability

Application No.

10/708,910

Examiner

Kishin G. Belani

Applicant(s)

ANSTEY ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment after Non-Final Rejection filed 06/07/2007.
2. ☒ The allowed claim(s) is/are 22-25, 28, 29, 35, 38-40 renumbered 1-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DAVID WILEY
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

This action is in response to Applicant's amendment filed on 06/07/2007. **Claims 1-21, 26, 27, 30-34, 36, 37, 41-44 have been cancelled. Claims 22 and 35 are currently amended. Claims 23-25, 28, 29, 39 and 40 are as originally presented. Claim 38 is as previously presented. Claims 22-25, 28, 29, 35, and 38-40 are now pending in the present application.**

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Frederick D. Bailey, registration number 42,282, on 8/7/2007, and confirmed by an e-mail sent to the examiner.

The claims have been amended as follows:

Claim Listing

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. – 21. (Canceled)

22. (Currently Amended) A system to aggregate evaluation of at least one metric across a plurality of resources, comprising:

a processor; and

an evaluator operable on the processor to form groups of resources of the plurality of resources comprising resources of a same type, each formed group of resources being of a different type, determine an aggregate evaluation of a selected metric for each group of resources of the plurality of resources, to adjust the aggregate evaluation of the selected metric for each group in response to evaluation criteria where the evaluation criteria is specific to each group, determine a combined aggregate evaluation for all metrics and all groups of resources associated with each metric, and to determine if any predetermined thresholds have been violated based on the combined aggregate evaluation.

23. (Original) The system of claim 22, further comprising a data source to store metric information from each resource of the group of resources.

24. (Original) The system of claim 22, further comprising a service level management database to store service level management information.

25. (Original) The system of claim 22, further comprising means for presenting the aggregate evaluation of the selected metric for the group of resources.

26. – 27. (Canceled)

28. (Original) The system of claim 22, wherein the selected metric is one of a resource availability metric, a resource performance metric, a resource response time metric, a resource utilization metric and a memory utilization metric.

29. (Original) The system of claim 22, wherein the evaluation criteria is derived from a service level agreement to adjust the aggregated evaluation of the selected metric.

30. – 34. (Canceled)

35. (Currently Amended) A computer-readable medium comprising ~~at least one of an electronic medium, magnetic medium, optical medium, electromagnetic medium and a semiconductor medium having computer-executable instructions~~, the computer executable instructions when executed on a computer causing the computer to perform:

forming groups of resources of the plurality of resources using a predetermined criteria comprising resources of a same type, each formed group of resources being of a different type;

determining an aggregate evaluation of a selected metric for each group of resources of the plurality of resources, the selected metric being specific to each group;

adjusting the aggregate evaluation of the selected metric for each group in response to evaluation criteria;

determining a combined aggregate evaluation for all selected metrics for all groups of resources; and

determining if any predetermined thresholds have been violated based on the combined aggregate evaluation.

36. – 37. (Canceled)

38. (Previously Presented) The computer-readable medium having computer executable instructions for performing the method of claim 35, further comprising adjusting the combined aggregate evaluation in response to the evaluation criteria.

39. (Original) The computer-readable medium having computer executable instructions for performing the method of claim 35, further comprising selecting the metric from one of a resource availability metric, a resource performance metric, a resource response time metric, a resource utilization metric and a memory utilization metric.

40. (Original) The computer-readable medium having computer executable instructions for performing the method of claim 35, further comprising deriving evaluation criteria from a service level agreement.

41 - 44. (Canceled)

Allowable Subject Matter

Claims 22-25, 28, 29, 35, and 38-40 are allowed.

The following is an examiner's statement for reasons for allowance:

Consider independent **claims 22 and 35**. The best prior art (**Rehm (US Patent Application Publication 2004/0117470 A1)**) found during examination of the present application, does not explicitly disclose the amended feature "an evaluator operable on the processor to form groups of resources of the plurality of resources comprising resources of a same type, each formed group of resources being of a different type, determine an aggregate evaluation of a selected metric for each group of resources of the plurality of resources, to adjust the aggregate evaluation of the selected metric for each group in response to evaluation criteria where the evaluation criteria is specific to each group, determine a combined aggregate evaluation for all metrics and all groups of resources associated with each metric, and to determine if any predetermined thresholds have been violated based on the combined aggregate evaluation" of **claim 22**, as disclosed in the applicant's specification (Fig 1, block 106, paragraphs 0016) and in the remaining independent claim **35**.

Therefore **claims 22 and 35** are considered novel and non-obvious.

Claims 23-25, 28, 29, and 38-40 are allowed because of their dependency on allowable independent **claims 22 and 35**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kishin G. Belani whose telephone number is (571) 270-1768. The Examiner can normally be reached on Monday-Thursday from 6:30 am to 5:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-0800.

Kishin G. Belani

K.G.B./kgb

August 7, 2007



DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100